

Georgia State Board of Funeral Service
Minutes
June 6, 2006

The Georgia State Board of Funeral Service held a work session meeting on June 6, 2006 at 237 Coliseum Drive, Macon, Georgia. David Roach, Vice-Chairman, called the meeting to order at 10:08 a.m.

A quorum was established with members present being: David Roach, Vice-Chairman, Teri Daviston, Nancy Kennedy, Thelon Hamby, and Linda Ware. Chairman Draper Watson joined the meeting at 12:25 and assumed the position of presiding officer.

Others present were: Steve Lindsey, Executive Director, Howard Fields, Inspector, and Reagan Dean, Assistant Attorney General.

Mr. Roach advised the members that the purpose of this meeting is to work to finalize discussion of items two and three of the petition filed with the Board by the Georgia Funeral Service Practitioners Association. Mr. Dean, Assistant Attorney General, summarized the petition and reminded the members of the remaining two items in the petition that the members need to discuss:

Item 2: Referred to in the petition as "Continuous Operations Rule," Mr. Dean stated that actually, it is Board Rule 250-6-.06 Funeral Establishment Inspections; Fines. Specifically, the petition called for an amendment to paragraph (1) of the rule, which mandates that, *"A representative of the Board shall regularly inspect establishments between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday. Although the funeral director in full and continuous charge need not be present for the inspections, the establishment must be open during these hours for inspection. The fine for a violation of this subsection shall \$500.00."*

Mr. Dean advised the Board members that two considerations must be given to a rule:

- (1) Does legal authority exist for establishing the rule?
- (2) Is the rule reasonable?

Mr. Dean advised the Board members that he finds sufficient legal authority to adopt Board Rule 250-6-.06 in O.C.G.A. § 43-18-75; O.C.G.A. § 43-18-2; and O.C.G.A. § 43-18-23 (3).

Regarding the reasonableness of the rule, Mr. Dean advised that O.C.G.A. § 43-18-75 requires annual inspections. The members agreed that the rule is reasonable in order to accomplish the requirement of the law. The members discussed whether some alternative can be allowed in order for the inspector to conduct inspections. Discussion involved the possibility of allowing for a telephone to be placed outside the establishment, whereby the inspector or a consumer can contact a representative of the establishment in the event that the establishment is not open upon arrival by the inspector. The members agreed that the Board can not require a telephone, but the option can be allowed if the establishment

is not open when the inspector arrives to conduct an inspection. The inspector can then allow up to 30 minutes for a representative to arrive and open the establishment for inspection. The Board agreed that, if this option were allowed in a rule amendment, failure to be open for inspection or to arrive within the 30 minute time limit to open for an inspection will result in a \$500 fine for violation of the rule. The second such violation of the rule may result in further disciplinary action by the Board. The Board members also agreed that the time of inspection should be amended to the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday, with the exception of legally-recognized holidays.

Item 3: Referred to in the petition as “License revocation for renewal not accomplished by May 1st.” The petition stated that the Board has no provision for an inactive status for licenses. Mr. Dean advised the Board that this statement is incorrect; in fact, Board Rule 250-6-.04 Inactive Status. provides clear guidance on the qualifications and procedure for inactivating funeral director and embalmer licenses. The rule further provides clear guidance on the process for reactivating funeral director and embalmer licenses.

Mr. Dean further advised the Board that Board Rule 250-5-.10 Revocation and Reinstatement. Amended. mirrors the legal requirement in O.C.G.A. § 43-1-19 (L) for expiration of licenses and the effect of a failure to renew a license by the expiration date. The rules also provides clear guidance on the process for reinstating a lapsed license. Mr. Dean clarified the difference between a lapsed license and a revoked license by explaining that a lapsed license is a license that was simply not renewed by the expiration date of the license by the licensee. A revocation of licensure is a disciplinary action taken against the licensee by the Board for violations of law or Board rules. Mr. Dean explained that, while failure to renew a license by the expiration date has the same effect as revocation in the eyes of the law, there is a marked distinction between a license status of “Lapsed” and a license status of “Revoked.” Sufficient provision is already in place for a licensee to apply for reinstatement of a lapsed license.

After discussion, the Board members agreed that the requirement for licenses to expire and be renewed biennially is a requirement of law, and could not be changed by rule of the Board. The members also agreed that the failure to renew a license by the expiration date having the same effect as revocation is a legal requirement and cannot be changed by Board rule. The members agreed that sufficient provision exists for a licensee who allowed a license to lapse to apply for reinstatement of the license. The members noted that Board Rule 250-6-.04 states that a license must be in an Active status in order to apply for Inactive status; furthermore, the law does not allow for providing an Inactive status after a license has lapsed.

The discussion of the petition items ended with Mr. Dean advising the Board members to be prepared to vote on the answers to the two items in the petition at the June 13 meeting.

Mr. Roach moved to enter into Executive Session to discuss a complaint.
Mr. Hamby seconded. Motion carried by Mr. Watson, Mr. Daviston, Ms. Kennedy, and Ms. Ware.

Mr. Watson declared the meeting Open.

FUN050049: Mr. Hamby presented his review of the complaint and moved that the Board close the case with a letter of concern to the respondent stating the Board's position that the family was overcharged. He further moved to recommend that the respondent refund the overcharge within 30 days and notify the Board in writing of the action.

Ms. Ware seconded the motion. The motion carried unanimously.

Mr. Daviston requested an update on a matter related to case # FUN050073. He also requested an update on cases FUN060099 and FUN050074. Mr. Lindsey stated that he will request an update from the Enforcement Section by the June 13 meeting.

Mr. Roach discussed Continuing Education with the Board, specifically the possibility of Board membership with the Academy of Professional Standards. Once membership is established, the Board can submit all requests to the Academy for review and recommendation. This process will provide more consistency in standards for review and approval. Mr. Watson asked Mr. Roach to bring more information to the June 13 meeting for the Board to review.

There being no further business, the meeting adjourned at 2:20 p.m.

These minutes were approved on June 13, 2006